

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JEROME DAVIS,

Plaintiff,

vs.

NEBRASKA DEPARTMENT OF
CORRECTIONAL SERVICES, et al.,

Defendants.

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4:05cv3258

MEMORANDUM AND ORDER

This matter is before the court on filing no. 13, the Motion to Dismiss filed by defendant-Nebraska Department of Correctional Services ("DCS"). As the defendant points out, DCS, a state agency, and other subordinate units of state government lack the capacity to sue and be sued in their own names. However, the court liberally construes DCS as the State of Nebraska for the purpose of this litigation. Therefore, filing no. 13 is denied.

SO ORDERED.

April 6, 2006.

BY THE COURT:

/s Richard G. Kopf
United States District Judge